

Minutes of the State Board of Health November 9, 2005

The Washington State Board of Health (WSBOH) met at the Comfort Inn of Tumwater in Tumwater, Washington. Dr. Kim Marie Thorburn, WSBOH Chair, called the public meeting to order at 9:06 a.m. and addressed the attendees with the following statement:

“This is a public meeting of the State Board of Health held under provisions of RCW 43.20. Notice of the meeting was provided in accordance with provisions of RCW 34.05, the Administrative Procedures Act. Those members having any conflict of interest on any item coming before the Board will report that conflict with respect to the particular subject under consideration. In case of challenge of any Board members by the public, the Board shall decide the status of the challenged members to participate before considering the substance of the matter.

Copies of all materials supplied to the Board for today’s meeting have been available since close of business last Friday from the Board’s Tumwater office and on its Web site at www.sboh.wa.gov. They are also available today, along with anything else we have received since, at the table in the back of the room. To conserve public funds, we have only made as many copies as we felt would be needed, so we may run out of some particularly popular items. If you do not find a document you need, please ask Desiree Robinson, WSBOH Executive Assistant, or another Board staff person for one.

Our meeting today is open to the public, so please feel free to listen in on informal discussions involving Board members or staff, including any that may occur during breaks or lunch.”

SBOH members present:

Kim Marie Thorburn, MD, MPH, Chair
Charles Chu, DPM
The Honorable David Crump, PhD
Ed Gray, MD
Keith Higman

Frankie T. Manning, MN, RN
Mary Selecky
The Honorable Mike Shelton
Mel Tonasket
Karen VanDusen

State Board of Health Staff present:

Craig McLaughlin, Executive Director
Lonnie Peterson, Public Information Officer
Desiree Robinson, Executive Assistant

Ned Therien, Health Policy Analyst
Tara Wolff, Health Policy Analyst

Guests and Other Participants:

Sofia Aragon, Department of Health
Ed Baker, Department of Health
Ania Beszterda, Lifelong AIDS Alliance
Chris Blake, Washington State House of Representatives
Dr. Mark Cooper, Citizen
Marie Courogen, Department of Health
John Erickson, Department of Health
James Green, Citizen
Christina Hulet, Office of the Governor

Jack Jourden, Department of Health
Warren King, *The Seattle Times*
Shana Melanson, Office of the Governor
Tracy Mikesell, Department of Health
Annette Shillinger, Citizen
Meg VanSchoorl, Washington State House of Representatives
Sarah Westervelt, Citizen

APPROVAL OF AGENDA

Motion: Approve November 9, 2005 agenda

Motion/Second: Crump/VanDusen

Approved unanimously

ADOPTION OF OCTOBER 12, 2005 MEETING MINUTES

Motion: Approve the October 12, 2005 minutes

Motion/Second: Crump/Selecky

Approved unanimously

SBOH ANNOUNCEMENTS AND OTHER BOARD BUSINESS

Craig McLaughlin, WSBOH Executive Director, said he and Chair Thorburn would sit in at a hearing of the Joint Select Committee on Public Health Financing on November 10. He mentioned that the Joint Select Committee on Health Disparities has released its report. He congratulated the Honorable David Crump on his reappointment to the Board representing elected city officials. He noted that Chair Thorburn had sent a denial letter to Mr. Robert Benze, who had petitioned for rule making to reconsider provisions of the onsite rules.

He said a CR-102 for the cystic fibrosis testing rule has been filed for a Board hearing in December. He mentioned a report the Department of Health (DOH) prepared for use by local school districts on communicating environmental hazards to the public. The Board's Environmental Health Committee will meet with DOH staff in January to be briefed on proposed content of a discussion draft of the school environmental health rule before DOH holds public workshops on the draft. The whole Board will be briefed after the workshops, most likely in March 2006. Staff has delayed the development of the dead animal disposal rule to coordinate with the Washington State Department of Agriculture on its attempt to revise its statutes and develop rules for livestock disposal.

Funding for varicella immunization looks promising, partly due to increased federal funding. Mary Selecky, Secretary of Health and WSBOH Member, said the Board should be very sensitive about timing when adopting policies that have significant costs. The Honorable Mike Shelton, WSBOH Member, asked whether this was a question of who moves first regarding setting public health policy. He expressed concern about how to get the Legislature to fund a program unless the Board sets a health policy. Secretary Selecky said it is best when the Board works in tandem with the Legislature. Chair Thorburn said the varicella immunization policy brought up a larger policy question about how to utilize new vaccines that are becoming available. Karen VanDusen, WSBOH Member, asked if the Board has a policy on how to bring legislators into discussions with the Board. Mr. McLaughlin said situations may be too variable for a policy, but he would work on improving his communication procedures with the Office of Financial Management (OFM). The Immunization Task Force met October 31 to look at priorities for purchasing vaccines and the ability to continue universal coverage.

Mr. McLaughlin highlighted a document from the National Association of City and County Health Officials (NACCHO) that lists the basic criteria that public health programs should include to be functional. Secretary Selecky said this functional definition is based on leading work done in Washington. She said the organization she participates in, the Association of State and Territorial Health Officials, is continuing the work of NACCHO. Chair Thorburn said there is a growing national movement encouraging development of an accrediting system for public health programs.

Mr. McLaughlin spoke briefly about the November election results, noting that the Washington Clean Indoor Air Initiative passed in every county of the state. He said this was a very positive public health statement. He also mentioned that the initiative to repeal the fuel tax failed, which should assure continued funding for transportation plans that address walkability. Initiatives 330 regarding malpractice lawsuit reform and 336 regarding malpractice medical reform also failed.

DEPARTMENT OF HEALTH UPDATE

Secretary Selecky said passage of the anti-smoking initiative is a strong victory for public health. Implementation must start in 30 days. She said there would be many discussions with local health agencies to sort out implementation issues. The best allies will be organizations such as the restaurant association and bowling leagues that can help with voluntary compliance. She said the “Smoke Free Sunday” promotion last spring was an example of great partnership. There will be many issues to work out regarding how to enforce the requirements of the initiative.

Secretary Selecky talked about the Governor’s priorities, which include economic development, infrastructure (transportation), energy cost containment, statewide broadband access, education, safety, government results, and health care. Health care solutions include evidence-based medicine, chronic disease management, a more transparent health care system so that consumers can make intelligent choices, technology improvements in records systems, and the public taking responsibility for healthy living (for example, employee wellness and physical activity and nutrition in schools). At the recent Health Summit, the Governor emphasized that it was the public’s responsibility to protect others by getting flu shots, practicing good personal hygiene, and staying home when ill. Secretary Selecky said the Board has a great opportunity to work with the Governor at this time. The challenge to the public health community is to support the Governor, but not broaden the effort so much that it overwhelms the Legislature. Dr. Charles Chu, WSBOH Member, said he is very encouraged by the Governor’s push for preventive health measures. He hopes insurance companies will accept this concept. Secretary Selecky said the term commonly used for the concept is “pay for performance.”

BOARD MEMBER COMMENTS AND CONCERNS

The Honorable David Crump, WSBOH Member, said he sees the Washington Clean Indoor Air Act as a great opportunity for public health. He mentioned that the Spokane School District has implemented a policy on removing junk food from schools. It found that vending machine companies could easily provide healthy alternatives to junk food. He also spoke about how a failing grade received as early as Grade 9 could predict failure to graduate and a lifetime of reduced health status. Dr. Ed Gray, WSBOH Member, said the failure of Initiatives 330 and 336 (affecting malpractice insurance rates) means there is still an unsolved problem that the Legislature needs to address. He mentioned that water rights issues are a growing problem for communities. He also said the new Medicare prescription drug provisions are a nightmare for most people to understand and it is very difficult for them to choose the best coverage.

Chair Thorburn said she hoped that the failure of Initiatives 330 and 336 will mean that the stakeholders would moderate their polarized positions so that a solution can be reached. She mentioned passage of a sales tax advisory measure in Spokane that will mean 1 percent extra sales tax revenues will go to mental health services. Member Shelton said he hoped that would not result in decreased state funding for mental health services.

ELECTION OF VICE CHAIR

Chair Thorburn passed out written ballots for the election of the Board's Vice Chair. Three members expressed an interest in the position—members Chu, Shelton and, Crump.

The Board voted and took a break at 10:21 a.m. It reconvened at 10:29 a.m.

Chair Thorburn announced that Member Shelton won the election for the Board's Vice Chair.

STRATEGIC PLANNING—PRELIMINARY DRAFT, INITIAL REVIEW AND COMMENT

Chair Thorburn said state agencies are required to develop a five-year work plan for the beginning of the next biennium. She said the draft plan the Board is considering this day is actually a seven-year plan that includes the current biennium. Mr. McLaughlin called the Board's attention to the materials behind Tab 7 and presented an overview of the draft (see slideshow presentation for more information).

Chair Thorburn asked the Board to go through the plan page by page. Member VanDusen suggested an addition to the Mission Statement. Secretary Selecky said she appreciated Member VanDusen's suggestions. Member Shelton said he also likes the suggestions and thinks they fit well with the Public Health Improvement Plan. He wants to send a message that the Board should set optimal policies for health, and not set inferior policy based on economic considerations. The Board discussed concepts that should be included or left out of the Mission Statement, including constitutional responsibility, "oversight of programs," "systems," "leadership," "review," "evaluation," "monitor," "to advance a program," "guidance," "assurance," "for all people in Washington." Because of Member VanDusen's suggestions and the subsequent discussion, the Board agreed to the following Mission Statement, and asked Mr. McLaughlin to edit it as necessary to improve the grammar:

The Board's mission is to provide statewide leadership to advance policies and provide guidance to protect and improve the public's health. This mission is achieved through:

- *The review and monitoring of the health status of all people in Washington.*
- *Policy analysis and rule development.*
- *Promoting system partnerships.*
- *Encouraging public engagement in the public health system.*

Member VanDusen also suggested modification of the Vision Statement. After discussion, the Board agreed on a very simple one-sentence statement: *Our vision is that the health and safety of all people in Washington will improve.*

The Board recessed for lunch at 11:58 p.m. and reconvened at 12:37 p.m.

The Board then briefly revisited the vision statement, and agreed Mr. McLaughlin should propose alternatives that explored a stronger vision than "will improve." Mr. McLaughlin said he would develop options and distribute them by e-mail for comment.

The Board continued its discussion of the strategic plan by looking at the five goals. It discussed simplifying Goal 3 and agreed to change it to "Reduce health disparities." It also deleted "outcomes" in Goal 4.

Mel Tonasket, WSBOH Member, said the Indian Health Service should be included as a partner in Objective 1.2.2. Member VanDusen and Secretary Selecky commented about quarantine authorities, and suggested that tribes should be included in disaster response planning. Mr. McLaughlin said a potential weakness in the strategic plan was the lack of a specific initiative for communicable disease control. Chair Thorburn asked that communicable disease control strategies be added to Goal 1 regarding public health capacity. The Board asked that Objective 1.4 be “beefed-up” and moved up front. Member Shelton spurred discussion about the difficulty of the public health system to gear up for emergencies with limited budgets.

Under Goal 2, the Board discussed the need to communicate that assuring access to all does not require reducing quality of care to some. There was discussion about possibly changing the phrase “cutting administrative costs,” to “consolidating administration.” Member Gray said the point he wants to make is that a “perfect storm” was developing in health care. Frankie T. Manning, WSBOH Member, said the public only understands the “illness care” system, not the totality of the health care system.

Member Shelton commented that he did not see how the Board could affect the mental health system, as stated in Objective 2.5. Chair Thorburn said she wanted to leave the concept of Objective 2.5 in the plan and let Mr. McLaughlin explore partnerships. Member Tonasket said he thought only Strategy 2.5.1.2 was within the Board’s ability. He said Activity 2.5.1.3 was a very unreasonable task for the Board. Member Shelton said he would be happy if the Board could get people thinking about the mental health system from a public health perspective; however, the system is driven by federal Medicaid rules. Member Crump encouraged the Board to have a strategy for improving the mental health system. He said Hurricane Katrina showed the need for a public health system with mental health capacity. The Board agreed to keep some part of Objective 2.5 in the plan. Member Tonasket asked for an explanation of the terms “health home” and “medical home.” Mr. McLaughlin said these are terms being used by various policy groups. The terms are unclear and misunderstood by the public. He said for the Board’s work, he tended to use the term “medical home.” It means where a person gets primary medical care and his or her medical records are kept.

Under Goal 3, Member Manning said the objective should be broader than state government. Member Crump asked that staff look at adding back the specific initiatives proposed by the Board’s committee related to disparities. Member Gray said Objective 3.3 is hindered by the fact that there are not enough spaces in Washington’s medical schools for students who qualify from the Northwest. Chair Thorburn said the same school capacity problems existed for other medical professions. Member Tonasket added that fewer scholarships were becoming available. Chair Thorburn said the strategies under Goal 4 would increase the Board’s work regarding alcohol abuse. Objective 4.2 is not covered by any of the Board’s existing committees. She asked the committees to think about how they could integrate substance abuse issues into their work. Mr. McLaughlin said Goal 4 should be coordinated with the Governor’s Office.

Goal 5 references many of the Board’s rule making activities. Chair Thorburn asked if all rule making should be listed. Keith Higman, WSBOH Member, said he did not think specifically listing the rules would be necessary because adopting and evaluating rules are ongoing parts of the Board’s work. He thinks a general reference to rule making and review would be sufficient. The Board discussed mold concerns and asked staff to add an activity on this topic to develop partnerships, possibly affecting building codes. Chair Thorburn asked to add a minor work activity regarding mold in buildings.

Mr. McLaughlin asked the Board to e-mail any additional comments to him.

PANDEMIC FLU UPDATE

Secretary Selecky introduced the presentation on pandemic flu planning and directed the Board's attention to the materials behind Tab 8. She said the public health system is tracking the disease in birds spreading around the world. People have gotten the disease from close association with poultry. Although transmission from person-to-person is not occurring, planning for a public health response is proceeding, just in case. This will be a 12–18 month process. Public health cannot rely on an untried drug or the development of a vaccine that does not currently exist. About 42,000 people a week travel to and from Asia from Pacific Northwest airports. Basic public health planning is the key to controlling a potential pandemic. She also stressed the need to educate the public about personal responsibility (for example, cover your cough). Chair Thorburn said public health is reaching out to the business community to develop policies on how to respond and maintain critical services if there is a pandemic. Local health agencies are busy educating their communities.

John Erickson, Director of Emergency Management, DOH, described how bioterrorism planning for smallpox provided a good model for all public health disaster planning. Continued planning will bring up issues such as redeploying state employees in the event of a pandemic. The public health system needs to do a lot of planning work to engage the public, the business community, and elected officials. Overall preparedness will help us respond to any type of communicable disease outbreak. Secretary Selecky said public health would have many partners in this. She said cross-border planning is part of this effort and federal funding supports this planning. This planning must/will serve for any type of infectious disease pandemic. Mr. Erickson said public health relationships with Mexico were not as advanced as with Canada. Member Shelton asked if science is successful in developing vaccines for changing viruses such as influenza. Chair Thorburn said vaccine production is based on old technology and requires at least six months to manufacture a new vaccine.

2006 STATE HEALTH REPORT AND PUBLIC FORUMS DISCUSSION

Mr. McLaughlin introduced Christina Hulet, Governor's Policy Office, and Shana Melanson, Governor's Policy Office. Ms. Melanson thanked the Board for its work and emphasized the need for members on the Governor's Boards and Commissions. Ms. Hulet thanked the Board for its work and provided some information on her background. She also briefed the Board on the Governor's priorities including access to care, covering all kids by 2010, and challenges to small businesses regarding insurance. Member Crump asked if the delay of the State Health Report mentioned in the motion described in the memo was something that would happen every year. Mr. McLaughlin said the motion referred to this year only but because the cause for the delay was systemic, the Board may want to consider this again in future years.

Mr. McLaughlin described the purpose and history of the State Health Report. The report has been evolving over the last few years and is becoming a document that is useful to health agencies. The Board has a statutory obligation to submit the report by January 1; however, the Governor is often unable to consider the report until after the legislative session. It would also be helpful to have a draft report available for discussion at the Board's public forums. If the forums take place during legislative session, the Governor's health policy staff likely will not be able to attend.

Ms. Hulet said from her perspective, the report belongs to the Board. There was question in the past about whether health agencies used the report. Now that Washington has a Governor with health on her

agenda, the report has become more important. The Governor is willing to delay the report to have more time for public forums and to coordinate the report with the Governor's interests.

Member Tonasket said he felt the report was more about DOH business, rather than the Board's business. He does not know where the Board is in development of the report. Mr. McLaughlin said an annual report and a state health report are required by statute to be developed by the Board. The Board is supposed to work with other health agencies to develop the latter. Chair Thorburn said the Board should be in tune with the work of other health agencies. The Board is required to write the report for the health agencies (with their input) and DOH is required to provide data to the Board to complete the report.

Member VanDusen said she would like public input on the draft during Board meetings. She wants to make sure that agencies that do not report to the Governor are consulted when the report is written because the report will affect them. Mr. McLaughlin reassured her that the report would be coming from the Board, not the Governor's Office. He also said that in 1999, the Governor's Office authorized the Board not to publish the report.

Member Shelton said it does not make sense to write a report that no one looks at. He would rather change the statute. Member Crump recognized that any form of collaboration would take the Board further.

Motion: The Board supports current efforts to incorporate the health policy development activities of the Governor's Office with development of the 2006 State Health Report, and directs Board staff to seek approval from the Governor to delay submission of a draft report until May 10, 2006.

Motion/Second: Crump/Shelton

Member VanDusen suggested a friendly amendment to change "integrate" to "incorporate." Members Crump and Shelton accepted the change as a friendly amendment.

Approved unanimously as amended.

Secretary Selecky suggested changing the name of the report to the *Washington State Board of Health Report*. Member Tonasket is in favor of changing the name in order to make it easier to understand the report's purpose. Member Manning asked Mr. McLaughlin to look at RCW language. Mr. McLaughlin suggested the Board talk about changing the name when it reviews the draft document.

The Board took a break at 3:07 p.m. and reconvened at 3:20 p.m.

BRIEFING ON HIV NAME RETENTION

Chair Thorburn introduced Jack Jourden, Director of the DOH Office of Infectious Disease and Reproductive Health, and Maria Courogen, DOH Senior Epidemiologist. Mr. Jourden explained that reporting infection with HIV was not required when AIDS first became a reportable disease in the 1980s. In 1999, the Board adopted a rule to require reporting of asymptomatic HIV case, but required that reports be maintained by code number, rather than name, after 90 days. The CDC is now asking all states to report HIV cases by name by June 30, 2006. Names kept by code will not be used to calculate allocation of funds provided under the Ryan White CARE Act. DOH wants Washington to comply with CDC reporting requirements to receive maximum federal funding for care services. Washington State

could lose several million dollars unless the Board changes its rules as to whether the names of HIV cases to be retained. DOH thinks it will take at least three months to convert the existing HIV reporting data to a name-based system. The proposal that DOH is developing would also include requirements for laboratories to report test results for HIV viral load and levels of T4 lymphocytes.

Member VanDusen said the Board's HIV reporting rules were a compromise, after a very contentious rule making process. She asked how converting to a name-based reporting system would benefit the affected public. Mr. Jourden said that many people impacted by the rule could benefit from health services funded by the CDC that they otherwise could not afford. Secretary Selecky said accurate data was needed for the public health community to know the distribution of HIV. She said that breeches in confidentiality have not been a problem with such data regarding AIDS cases. DOH has secure confidentiality provisions. Member VanDusen said the medical information privacy law also has become very protective of such information. Mr. Jourden said that an option for anonymous testing would remain. He said meetings to solicit public input would take place at locations convenient to the affected public. Chair Thorburn and Mr. McLaughlin discussed possible action and agreed that the Board's Executive Director would sign a CR-101 at the direction of the Chair.

POLICY FOR RESPONDING TO RULE MAKING PETITIONS

In response to recent correspondence petitioning the Board for rule making, Chair Thorburn asked Mr. McLaughlin to prepare a Board policy for responding to such petitions within the 60 days required by law. He explained the draft policy behind Tab 11. Member VanDusen suggested some language be inserted in paragraph 3 to notify the Board of a request before the Chair takes action. Member Tonasket asked that staff make sure a copy of the request is distributed to the Board, as well as a copy of the response letter from the Chair. Mr. McLaughlin said he would add a sentence to the policy regarding informing the Board of a request for rule making.

Motion: The Board adopts the policy for responding to rule making petitions, as amended by discussion today.

Motion/Second: Crump/Shelton

Approved unanimously

2006 MEETING SCHEDULE

Ms. Robinson called the Board's attention to the materials behind Tab 12 and reviewed the proposed 2006 Meeting Schedule. Member Tonasket suggested changing the location in November 2006 to the town of Okanogan rather than Winthrop.

Motion: The Board adopts the 2006 meeting schedule, as amended for Okanogan County.

Motion/Second: Shelton/Crump

Approved unanimously

PUBLIC TESTIMONY

James W. Green, resident of Cle Elum, testified about the School Rule Development Committee (SRDC) process. He thought public involvement in the process was limited. He is disappointed in the slowness of DOH in getting information to the Board. He was specifically concerned about the balance between what ends up in rule and what ends up in guidance. He distributed to the Board four copies of

SRDC workgroup meeting materials. (The documents did not include the final recommendations of the SRDC.)

Dr. Mark S. Cooper, citizen, testified about concern for controlling mold in schools. He encouraged the Board to hold a public hearing to receive public testimony from many people thought to have suffered health problems from mold. He said that he anticipated that DOH would have weak provisions for controlling mold and other environmental health hazards in the draft rules for schools. He encouraged the Board to adopt all rule provisions recommended by the SRDC. He suggested a phased compliance approach in implementing new rules. He also provided written testimony.

Annette Shillinger, resident of Renton, testified that she worked as a teacher and librarian for 35 years and suffered health problems from mold in a school where she worked. The mold problem was due to an unrepaired, leaky roof. She believes repairs were deferred because the school was in a poor neighborhood. She described health problems she believes were caused by exposure to mold in the school. She said school staff was told by administrators to ignore certain symptoms in the children. She said the school district has legally challenged her Labor and Industries disability claim. She also provided written testimony.

Sarah Westervelt, resident of Seattle, is a mother of two children in the Seattle School District and co-chair of the oversight committee established by the Seattle School District to monitor the district's new water quality policy. She testified that one of her daughters was exposed to high levels of lead and copper from drinking water in her school. She said even after high levels were found by the school district, the district was very slow to respond. She said that the school district hid its knowledge of high heavy metals in school drinking water for 12 years, affecting the health of many children. She encouraged the adoption of strong rules for schools, not guidelines that districts likely would not followed for financial reasons.

Member Tonasket asked staff to furnish the Board with a copy of recommendations from the SRDC.

Member Manning reminded the Board that November 11 was Veterans' Day. She thanked any veterans in the room for their service. She encouraged members of the Board and the audience to take the opportunity to thank veterans and their families.

ADJOURNMENT

Chair Thorburn adjourned the meeting at 4:20 p.m.

WASHINGTON STATE BOARD OF HEALTH

A handwritten signature in dark ink, reading "K. Marin Thorburn, M.D., M.P.H.", is written over a horizontal line.

Kim M. Thorburn, M.D., M.P.H., Chair